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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,526	03/27/2004	Julian James Orbach	403104-A-01-US (Orbach)	1176
47523	7590	09/12/2007	EXAMINER	
JOHN C. MORAN, ATTORNEY, P.C. 4120 EAST 115 PLACE THORNTON, CO 80233-2623			DOAN, KIET M	
			ART UNIT	PAPER NUMBER
			2617	
			MAIL DATE	DELIVERY MODE
			09/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/810,526	Applicant(s) ORBACH, JULIAN JAMES	
	Examiner Kiet Doan	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-8, 10-26, 28-30, 32-48, 50-52 and 54-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 10-26, 28-30, 32-48, 50-52 and 54-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06/10/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/15/2007 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-8, 10-26, 28-30, 32-48, 50-52, 54-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coombes (Pub. No. 2004/0198461) in view of Rutledge et al. (US 2002/0142756 A1).

Consider **claims 1, 3, 12, 23, 25, 34, 45, 47, 56, 59-60**. Coombes teaches a method for alerting a calling party of a delay before an incoming call will be answered by a user of a called telecommunication terminal, comprising the steps of:

answering the incoming call by the telecommunication terminal in response to an input from the user when the telecommunication terminal is not engaged in another call;

muting an audio path of the answered call from communication with the user

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(Abstract, Paragraphs [0008], [0011-0012], [0015], Fig.2, Illustrate and teach incoming call is received by mobile communication device and answering the incoming call by transmits pre-recorded message by input from the user of communication device at the same time the call is on hold until means as call is delay before the call can be answer).

Coombes teach the limitation of claim as discuss **but silent on**

receiving a time specifying the delay from the user after the incoming call is received; and while the telecommunication terminal is not engaged in another call;

inseting the time into a predefined message; and

transmitting the predefined message that is selected by the user to the calling party.

In an analogous art, Rutledge teaches "Telephone answering system with courtesey greeting selectable after call is received". Further, Rutledge teaches receiving a time specifying the delay from the user after the incoming call is received; and while the telecommunication terminal is not engaged in another call;

inseting the time into a predefined message; and

transmitting the predefined message that is selected by the user to the calling party (Abstract, Paragraphs [0012], [0019-0020]. [0023-0025], teach recipient phone 10 is either unable or unwilling to take call and selected greeting message which pre-recording and transmitting message to calling party wherein the message contain specifying time from the users as illustrate in Fig.3 call will be terminated/end after received greeting message).

Therefore, it would have been obvious at the time that the invention was made that person having ordinary skill in the art to modify Coombes and Rutledge system, such that while the telecommunication terminal is not engaged in another call, answering the incoming call by the telecommunication terminal in response to an input from the user when the telecommunication terminal is not engaged in another call, muting an audio path, receiving a time specifying the delay from the user and transmitting the predefined message that is selected by the user to the calling party to provide means for the caller awareness of call are still activated and knowing status of call and avoid unnecessary hand up.

Consider **claims 2, 13, 24, 35 and 46**. Rutledge teaches the method of claim 1 further comprises the step of maintaining the incoming call from the calling party with the audio path muted to the user; and allowing audio communication by the user with calling party in response to another input from the user (Paragraph [0012], [0025]).

Consider **claims 4, 15, 26, 37 and 48**. Rutledge teaches the method of claim 1 wherein the message is an audio message and the audio message is transmitted via the audio path to the calling party (Paragraph [0018-0020]).

Consider **claims 6, 17, 28, 39 and 50**. Rutledge teaches the method of claim 5 wherein the step of inserting comprises converting the time to audio information for insertion into the predefined message (Paragraphs [0025]).

Consider **claims 7, 18, 29, 40 and 51**. Coombes teaches the method of claim 6 further comprises the step of recording the predefined message (Paragraph [0011] teach recording message).

Consider **claims 8, 10, 19, 21, 30, 32, 41, 43, 52, 54, 57-58**. The method of claim 1 wherein the message is a text message (Official notice and well know in the art that text message can be send by telecommunication terminal via text message link).

Consider **claims 11, 22, 33, 44 and 55**. Coombes teaches the method of claim 9 further comprises the step of entering the predefined message (Paragraph [0011]).

Consider **claims 61-63**. Rutledge teaches the method of claim 3 wherein the message is a predefined message and the method further comprises the step of receiving a time specifying the delay before user return the incoming call from the user after the incoming call is received; and

inserting the time into a predefined message (Paragraphs [0020-0025]).

Conclusion

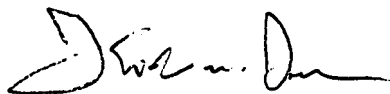
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiet Doan whose telephone number is 571-272-7863.

The examiner can normally be reached on 8am - 5pm.

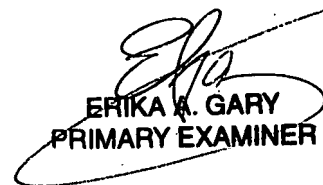
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kiet Doan
Patent Examiner



ERIKA A. GARY
PRIMARY EXAMINER